

Translation

PATENT COOPERATION TREATY

PCT

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference CPC31271	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/CN03/00475	International filing date (day/month/year) 19.JUN.2003 (19.06.2003)	Priority date (day/month/year) 19.JUN. 2002 (19.06.2002)
International Patent Classification (IPC) or national classification and IPC IPC(7): A61K 31/41, A61P 9/00		
<p>Applicant Institute of Materia Medica, Chinese Academy of Medical Sciences, et al.</p> <p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 3 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		

Date of submission of the demand 13.Jan.2004(13.01.04)	Date of completion of this report 9.Sep.2004(09.09.04)
Name and mailing address of the IPEA/ 6 Xitucheng Rd., Jimen Bridge, Haidian District, 100088 Beijing, China	Authorized officer ZHANG, W Telephone No. 86-10-62093855
Facsimile No. 86-10-62019451	

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

- the international application as originally filed/furnished

- the description:

pages _____ as originally filed/furnished

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____

- the claims:

pages _____ as originally filed/furnished

pages _____ as amended (together with any statement) under Article 19

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____

- the drawings:

pages _____ as originally filed/furnished

pages _____ received by this Authority on _____

pages _____ received by this Authority on _____

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____

the claims, Nos. _____

the drawings, sheets/figs _____

the sequence listing (*specify*): _____

any table(s) related to sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____

the claims, Nos. _____

the drawings, sheets/figs _____

the sequence listing (*specify*): _____

any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/N03/00475

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement:

Novelty (N) Claims _____ YES

Claims 1-9 _____ NO

Inventive step (IS) Claims _____ YES

Claims 1-9 _____ NO

Industrial applicability (IA) Claims 1-9 _____ YES

Claims _____ NO

2. Citations and explanations (Rule 70.7)

2.1 A. Nattermann und Cie. (D1=CN1243749A, See Claims 1、5、7 或 8) discloses the use of benzisoselenolone compounds (e.g. compound A) used for treating ischemic disorders; Hoshida Shiro et al. (D2=CA 122: 71678) disclose the use of benzisoselenolone compounds (e.g. Ebselen) used for treating myocardial ischemia. Thus, D1 or d2 teaches the claimed use, the subject-matter of Claims 1-9 are not novel, don't meet the requirements of Article 33(2) PCT.

2.2 Claims 1-9 are considered to be fulfil the requirement of industrial applicability.